	PROPOSED] ORDER PERMITTING PLAINTIFF TO FILE STIPULATION OF THE PARTIES	E A FIRST AMENDED COMPLAINT PURSUANT TO THE	
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24	Defendant[s].	) )	
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21 22	WELLS FARGO & COMPANY, WELLS FARGO BANK, N.A., and DOES 1 through 125,	SUPPORT THEREOF.  Hon. Phyllis J. Hamilton	
20	v.	FIRST AMENDED COMPLAINT; DECLARATION OF JAE (EDDIE) K. KIM IN	
19	Plaintiff,	STIPULATION AND [PROPOSED] ORDER PERMITTING PLAINTIFF TO FILE A	
18	JOSHUA P. ENDRES, as an individual, and on behalf of all others similarly situated,	Civil Case No.: C-06-7019 PJH	
17	IOCHHA D ENDDEC	) 	
16	FOR THE NORTHERN DISTRICT OF CALIFORNIA		
15	UNITED STATES DISTRICT COURT		
13 14			
12	WELLS FARGO & CO.		
11	Attorneys for Defendants WELLS FARGO BANK, N.A. and		
10	Telephone: (415) 591-6000 Facsimile: (415) 591-6091		
9	One Front Street San Francisco, CA 94111		
8	Sonya D. Winner, Esq., State Bar No. 200348 David M. Jolley, Esq., State Bar No. 191164 COVINGTON & BURLING LLP		
6 7	Convo D. Winner Egg. State Der No. 200249		
5	Attorneys for Plaintiff		
4	Redlands, California 92374 Telephone: (909) 335-0444 Facsimile: (909) 335-0452		
3	WELEBIR & McCUNE 2068 Orange Tree Lane, Suite 215 Redlands, California, 02374		
1 2	rdm@wmtrial-law.com Jae (Eddie) K. Kim, Esq., State Bar No. 236805 jkk@wmtrial-law.com		
	Richard D. McCune, Esq., State Bar No. 132124		

IT IS HEREBY STIPULATED by and between the parties to this action as follows:

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## I. RECITALS

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- 1. On November 15, 2006, Defendants WELLS FARGO & COMPANY and WELLS
- FARGO BANK, N.A. (hereinafter "Defendants") served counsel for Plaintiff JOSHUA P. ENDRES
- (hereinafter "Plaintiff") with Defendants' Notice of Motion and Motion of Defendants Wells Fargo
- Bank, N.A. and Wells Fargo & Co. to Dismiss Plaintiff Joshua P. Endres's Complaint (hereinafter
- "Defendants' Motion to Dismiss"). Defendants originally noticed a December 20, 2006, hearing date
- for the motion to dismiss, but amended the notice for a January 17, 2007, hearing date.
- 2. Pursuant to this January 17, 2007, hearing date, the deadline for Plaintiff's opposition to Defendants' Motion to Dismiss is December 27, 2006.
- 3. On December 19, 2006, Jae (Eddie) K. Kim of Welebir & McCune, counsel for Plaintiff, telephoned David M. Jolley of Covington & Burling LLP, counsel for Defendants, to notify Defendants
- that Plaintiff intended to amend his complaint in order to resolve the issues raised by Defendants'
- Motion to Dismiss, in lieu of filing an opposition to Defendants' Motion to Dismiss. Mr. Jolley agreed
- with Mr. Kim's proposal, and suggested the parties enter into a stipulation to effectuate the agreement.

## II. **STIPULATION**

- Therefore, based on the foregoing RECITALS, and the present circumstances as they exist, the parties, through their respective legal counsels of record, hereby make the following stipulations in requesting an order by the Court:
- That Defendants will take the hearing on their Motion to Dismiss off of the Court's 1. calendar.
  - 2. That Plaintiff is to file and serve his first amended complaint by January 8, 2007.
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1	That Defendants are to file and serve a response or answer to Plaintiff's first amended	
2	complaint no later than 30 days after Plaintiff serves Defendants with his first amended complaint.	
3	IT IS SO STIPULATED.	
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5	DATED: December 21, 2006 WELEBIR & McCUNE	
6	By: I we had a	
7	Jae (Eddie) K. Kim	
8	Attorney for Plaintiff	
9	COMPLEMENTAL DEPLIES OF THE CASE	
10	DATED: December 21, 2006 COVINGTON & BURLING LLP	
11	By:	
12	David M. Jolley Attorney for Defendants	
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## **DECLARATION OF JAE (EDDIE) K. KIM**

I, JAE (EDDIE) K. KIM, hereby declare as follows:

- 1. That I am an attorney duly authorized to practice before all courts of the State of California and the United States District Court of California. I am an associate with the law firm of Welebir & McCune, legal counsel of record for Plaintiff Joshua P. Endres in the above entitled action. The contents of this Declaration are within my own personal knowledge and if called upon to testify thereto, I could and would competently do so.
- 2. On November 15, 2006, Defendants WELLS FARGO & COMPANY and WELLS FARGO BANK, N.A. (hereinafter "Defendants") served counsel for Plaintiff JOSHUA P. ENDRES (hereinafter "Plaintiff") with Defendants' Notice of Motion and Motion of Defendants Wells Fargo Bank, N.A. and Wells Fargo & Co. to Dismiss Plaintiff Joshua P. Endres's Complaint (hereinafter "Defendants' Motion to Dismiss"). Defendants originally noticed a December 20, 2006 hearing date for the motion to dismiss, but amended the notice for a January 17, 2007 hearing date.
- 3. Pursuant to this January 17, 2007 hearing date, the deadline for Plaintiff's opposition to Defendants' Motion to Dismiss is December 27, 2006.
- 4. On December 19, 2006, I telephoned David M. Jolley of Covington & Burling LLP, counsel for Defendants, to notify Defendants that Plaintiff intended to amend his complaint in order to resolve the issues raised by Defendants' Motion to Dismiss, in lieu of filing an opposition to Defendants' Motion to Dismiss. Mr. Jolley agreed with my proposal, and suggested the parties enter into a stipulation to effectuate the agreement.
- 5. For the purpose of resolving the issues raised in Defendant's Motion to Dismiss outside of court, counsel of record for all parties agreed to stipulate as follows: that Defendants will take the hearing on their Motion to Dismiss off of the Court's calendar; that Plaintiff is to file and serve his first amended complaint by January 8, 2007; and that Defendants are to file and serve a response or answer to Plaintiff's first amended complaint no later than 30 days after Plaintiff serves Defendants with his first amended complaint.
- 6. There are no previous time modifications in this case, either by stipulation or by court order.

7. The effect of the requested modifications would be that the hearing of Defendants' Motion to Dismiss will be vacated and Defendants will have sufficient time to answer a first amended complaint. As such, there will likely be no significant delay in the proceeding of this case as a result of the requested modifications.

The foregoing statements are true and correct and are made under the penalty of perjury under the laws of the State of California.

This Declaration is hereby made and executed on December 21, 2006 at Redlands, California.

JAE (EDDIE) K. KIM, Declarant

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5	UNITED STATES DISTRICT COURT		
6	FOR THE NORTHERN DISTRICT OF CALIFORNIA		
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8	JOSHUA P. ENDRES, as an individual, and on behalf of all others similarly situated,	Civil Case No.: C-06-7019 PJH	
9	benan of an others similarly situated,	PROPOSED   ORDER PERMITTING   PLAINTIFF TO FILE A FIRST AMENDED	
10	Plaintiff,	COMPLAINT	
11	v. WELLS FARGO & COMPANY, WELLS	Hon. Phyllis J. Hamilton	
12	FARGO BANK, N.A., and DOES 1 through 125,		
13			
14	Defendant[s].		
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16	Pursuant to the parties' Stipulation in Request for an Order Permitting Plaintiff to File a First		
17	Amended Complaint, it is hereby ordered as follows:		
18	1. That Defendants Wells Fargo & Company and Wells Fargo Bank, N.A., shall take the		
19	hearing on their Motion to Dismiss Plaintiff's Complaint off of this Court's calendar.		
20	2. That Plaintiff Joshua P. Endres is to file and serve his first amended complaint by Januar		
21	8, 2007.		
22	3. That Defendants Wells Fargo Bank, N.A., and Wells Fargo & Co. are to file and serve		
23	their response or answer to Plaintiff's first amended complaint no later than 30 days after Plaintiff serve		
24	Defendants with his first amended complaint.	STATES DISTRICT CO.	
25	12/22/06	IT IS SO ORDERED	
26	DATED:	Z Josephyllis J. Hamilton	
27	THE HONORABLE PARTLES J. HAMPLYON		
28	JUDGE OF THE UNITED DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA		

 $\frac{\text{-1 -}}{\text{[PROPOSED] ORDER PERMITTING PLAINTIFF TO FILE A FIRST AMENDED COMPLAINT PURSUANT TO THE STIPULATION OF THE PARTIES}$